

THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT COURT OF DELAWARE

THERESA CROTHER,	:	
	:	
GEORGE GREEN,	:	
	:	
GREGORY PARISE,	:	Jury Trial Demanded
	:	
MICHAEL WHETSTONE.	:	
	:	
V.	:	
	:	C.A. No. 04-913(KAJ)
TOWN OF DEWEY BEACH,	:	
	:	
SAMUEL MACKERT,	:	
Acting Chief	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN ZACHARY PETTYJOHN,	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN JOHN WHEATLEY,	:	
Dewey Beach Police Department	:	

NOTICE OF MOTION

TO: Kevin Connors, Esquire
Marshall Dennehey Warner
Coleman & Goggin
1120 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888

PLEASE TAKE NOTICE that the attached Motion to Compel Pursuant to
Federal Civil Rule 37 will be presented to the Court at the Court's earliest convenience.

LIGUORI, MORRIS & YIENGST

/s/ James E. Liguori
JAMES E. LIGUORI, ESQUIRE
46 The Green
Dover, DE 19901
(302) 678-9900
Attorney for Plaintiff

DATE: August 28, 2006

**THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT COURT OF DELAWARE**

THERESA CROTHER,	:	
	:	
GEORGE GREEN,	:	
	:	
GREGORY PARISE,	:	Jury Trial Demanded
	:	
	:	
MICHAEL WHETSTONE.	:	
	:	
V.	:	
	:	C.A. No. 04-913(KAJ)
TOWN OF DEWEY BEACH,	:	
	:	
SAMUEL MACKERT,	:	
Acting Chief	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN ZACHARY PETTYJOHN,	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN JOHN WHEATLEY,	:	
Dewey Beach Police Department	:	

MOTION TO COMPEL PURSUANT TO FEDERAL CIVIL RULE 37

COMES NOW, the Plaintiffs, by and through their counsel, moves this Court pursuant to Federal Court Civil Rule 37 for an Order Compelling the Plaintiffs to Answer the outstanding Discovery. In support of their Motion, the Defendants state as follows:

1. The Plaintiff filed Interrogatories and Requests for Production to all Defendants on or about March 16, 2005 which was served upon Defendant's counsel by first-class mail.
2. James E. Liguori, Esquire, counsel for the Defendants sent a letter to Kevin Connors, Esquire, counsel for Defendants on November 14, 2005 requesting responses to the Discovery Request within two weeks. (Attached as Exhibit "A").

3. Gregory A. Morris, Esquire, counsel for the Plaintiffs, sent a letter to Kevin Connors, Esquire, counsel for the Defendants on February 13, 2006 requesting responses to the Discovery Request within two weeks. (Attached as Exhibit "B").
4. James E. Liguori, Esquire, counsel for the Plaintiffs, sent a letter to Kevin Connors, Esquire, counsel for the Defendants on May 24, 2006 requesting responses to the Discovery Request within two weeks. (Attached as Exhibit "C").
5. To date, the Defendants have failed to answer the Discovery. The Discovery seeks relevant information which is necessary to properly litigate this case. Answering the Discovery will expedite the flow of litigation which is essential under the Discovery Rules.
6. The Defendants cannot provide good reason for their failure to respond to the Discovery.
7. Pursuant to local rule 7.1.1, the undersigned attorney for Plaintiff certifies that he has made a reasonable effort to reach an agreement with the opposing attorney on the matter set forth in this Motion and has attempted to secure answers to the above described Discovery through the aforementioned communications with the attorney for the Defendants but has not received a response.
8. The Plaintiff's respectfully request that the Court award attorney's fees in the reasonable amount of \$225.00 as a result of the good faith effort to obtain the

Discovery without Court action and the failure of the opposing parties to respond was not justified.

WHEREFORE, the Plaintiff pray that this Court to enter an Order Compelling the Defendants to answer the outstanding Discovery.

LIGUORI, MORRIS & YIENGST

/s/ James E. Liguori

JAMES E. LIGUORI, ESQUIRE

46 The Green

Dover, DE 19901

(302) 678-9900

Attorney for Plaintiff

DATE: August 28, 2006

THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT COURT OF DELAWARE

THERESA CROTHER,

GEORGE GREEN,

GREGORY PARISE,

MICHAEL WHETSTONE.

V.

TOWN OF DEWEY BEACH,

SAMUEL MACKERT,

Acting Chief

Dewey Beach Police Department

PATROLMAN ZACHARY PETTYJOHN,

Dewey Beach Police Department

PATROLMAN JOHN WHEATLEY.

Dewey Beach Police Department

ORDER

NOW, this _____ day of _____, 2006, Plaintiffs Motion to Compel having been read and considered, the Defendants are Ordered to respond to the Discovery requests by _____ and that Plaintiffs' shall pay reasonable attorney's fee in the amount of \$225.00.

JUDGE KENT JORDAN

EXHIBIT “A”

Liguori, Morris & Yiengst

Attorneys At Law

46 The Green, Dover, Delaware 19901
(302) 678-9900 • Fax (302) 678-3008



James E. Liguori
Gregory A. Morris
Laura A. Yiengst

November 14, 2005

Kevin J. Connors
Marshall Dennehey Warner
Coleman & Goggin
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888

SENT VIA FAX: 302-651-7905
(Original mailed)

RE: Parise et al. v. Dewey Beach et al.
C.A. No.: 04-913(KAJ)

Dear Kevin:

I have still not heard back from you whether you have been able to contact the Town of Dewey Beach about paying the deductible so we can at least settle some of the plaintiff's claims. I would request that you let me know what the status of this matter is at this time so I can advise my clients.

I originally served you with discovery requests for each one of the Defendants back in May of 2005. There is a fast approaching discovery cut off, I would request that you provide our office with responses in the next two weeks so we can begin scheduling depositions in this matter. I did not pursue this matter previously because I was hopeful that the cases would be settled through mediation. Unfortunately, I can not wait any longer for these materials since we are under a new court order for discovery.

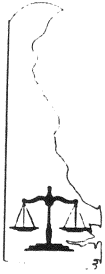
I thank you for your attention to this matter. If you have any further questions or concerns, please do not hesitate to contact me.

Very truly yours,

 *For James E. Liguori*
James E. Liguori

JEL/jld

EXHIBIT “B”



Liguori, Morris & Yiengst

Attorneys At Law

46 The Green, Dover, Delaware 19901
(302) 678-9900 • Fax (302) 678-3008

James E. Liguori
Gregory A. Morris
Laura A. Yiengst

February 13, 2006

VIA FACSIMILE (302-651-7905) AND US MAIL

Kevin J. Connors
Marshall Dennehey Warner
Coleman & Goggin
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888

RE: PARISE ET AL VS. DEWEY BEACH ET AL.
CA. NO.: 04-913KAJ

Dear Kevin,

This should act as confirmation of our most recent telephone conversation in which you advised that you would be getting the responses to our discovery request to us. We had held off any Motion to Compel while we were attempting to settle at least some of the claims. As a matter of fact, I wrote to you on November 14, 2005 requesting that you submit the discovery materials within two weeks of the date of that letter. I still have not received such discovery material. Please be advised if I do not receive the discovery by February 28, 2006, I will be filing a Motion to Compel. I would also like to begin scheduling the depositions in this case for sometime late in March. Please advise as to dates which you are available during the last two weeks of March so we can begin scheduling the deposition of the various parties in this case.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Gregory A. Morris

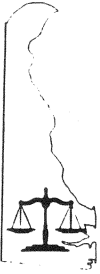
GAM/tlb

EXHIBIT “C”

Liguori, Morris & Yiengst

Attorneys At Law

46 The Green, Dover, Delaware 19901
(302) 678-9900 • Fax (302) 678-3008



James E. Liguori
Gregory A. Morris
Laura A. Yiengst

VIA FACSIMILE (302-651-7905) AND US MAIL

May 24, 2006

Kevin J. Connors
Marshall Dennehey Warner
Coleman & Goggin
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888

RE: PARISE ET AL VS. DEWEY BEACH ET AL.
CA. NO.: 04-913KAJ

Dear Kevin,

This should act as confirmation that you have not provided discovery responses which are long overdue. If this office does not receive the responses within two weeks of the date of this letter, we will be filing a motion to compel with the Court.

You requested that we submit a settlement demand on behalf of our clients. My clients make the following demand:

Greg Parise -- \$600,000.00
George Green -- \$50,000.00
Teresa Crothers -- \$15,000.00
Michael Wetstone -- \$15,000.00

Please discuss the above offers with your client and get back to us as soon as possible to see if we can resolve any or all of the above claims.

I thank you for your attention to this matter.

JEL/tlb

Very truly yours,

James E. Liguori

A handwritten signature in black ink, appearing to read 'James E. Liguori', with a large, stylized flourish at the end.

THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT COURT OF DELAWARE

THERESA CROTHER,	:	
	:	
GEORGE GREEN,	:	
	:	
GREGORY PARISE,	:	Jury Trial Demanded
	:	
MICHAEL WHETSTONE.	:	
	:	
V.	:	
	:	C.A. No. 04-913(KAJ)
TOWN OF DEWEY BEACH,	:	
	:	
SAMUEL MACKERT,	:	
Acting Chief	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN ZACHARY PETTYJOHN,	:	
Dewey Beach Police Department	:	
	:	
PATROLMAN JOHN WHEATLEY,	:	
Dewey Beach Police Department	:	

CERTIFICATE OF SERVICE

JAMES E. LIQUORI, ESQUIRE, does hereby certify that on this 28th day of August 2006, caused to be mailed to Kevin Connors, Esquire at the following address two (2) true and correct copies of the Motion to Compel:

Kevin Connors, Esquire
Marshall Dennehey Warner
Coleman & Goggin
1120 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888

LIGUORI, MORRIS & YIENGST

/s/ James E. Liguori
JAMES E. LIGUORI, ESQUIRE
46 The Green
Dover, DE 19901
(302) 678-9900
Attorney for Plaintiff